



Date: July 13, 2017

Title: Guidance on Annual Eligibility Redetermination and Re-enrollment for Exchange Coverage for 2018

Background

45 CFR 155.335(a)(2) provides that a Health Insurance Exchange has three options to redetermine eligibility for enrollment in a qualified health plan (QHP) through the Exchange and insurance affordability programs on an annual basis. 45 CFR 155.335(a)(2)(ii) provides that one of these options is a set of alternative procedures specified by the Secretary for the applicable benefit year. This guidance describes these alternative procedures for benefit year 2018, which are largely the same as the alternative procedures specified by the Secretary for benefit year 2017.¹

As in years past, the alternative procedures for benefit year 2018 preserve a core feature of the annual redetermination and re-enrollment process that, in general, an enrollee may maintain coverage across benefit years without taking action, which is important to promote continuity of coverage while limiting administrative burden for enrollees, issuers, and Exchanges. All Exchanges using the federal eligibility and enrollment platform will use the procedures specified in this guidance for benefit year 2018.²

2017 Procedures Retained for 2018

The Secretary's alternative procedures for benefit year 2018 retain the following key components of the alternative procedures for benefit year 2017, as described in the published guidance:

- *Requesting updated data.* The Exchange will continue to request updated data from the Internal Revenue Service (IRS) for all enrollees on whose behalf advance payments of the premium tax credit (APTC) or income-based cost-sharing reductions (CSRs) are being provided, and who have provided authorization to the Exchange to request such data, for purposes of annual redetermination. The IRS's response will continue to include information on compliance with the filing and reconciliation requirement for tax filers who had APTC provided on their behalf for a prior benefit year.

¹ The alternative procedures described by the Secretary for benefit year 2017, titled *Guidance on Annual Redeterminations and Re-enrollments for Marketplace Coverage for 2017*, can be found at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/ARR-2017-Guidance-051016-508.pdf>

² This includes Federally-facilitated Exchanges, State Partnership Exchanges, and those State-based Exchanges that use the federal eligibility and enrollment platform.

- *Exchange notices.* The Exchange will continue to send a Marketplace Open Enrollment Notice (MOEN) that will include general information about the upcoming Open Enrollment Period, as well as information tailored to the groups listed in the alternative procedures for benefit year 2016.³
- *Issuer notices.* Issuers will continue to send notices to current enrollees before open enrollment that comply with regulations specified at 45 CFR 147.106 and 45 CFR 156.1255.
- *Redeterminations.* For enrollees who return to the Exchange to update eligibility information or for the other purposes described in the alternative procedures for benefit year 2016, the Exchange will continue to redetermine eligibility using updated federal poverty level (FPL) tables, the applicable benchmark plan information, and the applicable percentage indexed for the upcoming benefit year in accordance with 26 CFR 1.36B-3(g). For enrollees who do not return to the Exchange to obtain an updated eligibility determination and select a QHP⁴ by the last day on which a plan selection may be made for coverage effective January 1, 2018 in accordance with the effective dates specified at 45 CFR 155.410(f), the Exchange will continue to establish eligibility for the upcoming benefit year based on the hierarchy described in the alternative procedures for benefit year 2016, with all references to years advanced by two years, and will continue to discontinue APTC and income-based CSRs for certain enrollees who have been automatically re-enrolled more than once, as described below.
- *Re-enrollment.* The Exchange will automatically re-enroll 2017 enrollees who do not select a QHP by the last day on which a plan may be selected for coverage effective January 1, 2018 in accordance with the effective dates specified in 45 CFR 155.410(f), to the extent that the enrollee can be re-enrolled, consistent with 45 CFR 155.335(j).
- *Certain repeat automatic re-enrollees.* The Exchange will continue using the procedure first implemented for benefit year 2017 to discontinue APTC and income-based CSRs for benefit year 2018 for enrollees who: 1) were automatically re-enrolled by the Exchange for benefit year 2017 with APTC or income-based CSR; 2) were also automatically re-enrolled by the Exchange for benefit year 2016 with APTC or income-based CSR; 3) did not submit an updated application that was used as the basis for enrollment in a QHP for benefit year 2016 or 2017; 4) do not submit an updated application that is used as the

³ The MOEN groups described by the Secretary in the alternative procedures for benefit year 2016, titled *Guidance on Annual Redeterminations and Re-enrollments for Marketplace Coverage for 2016*, can be found at <https://www.cms.gov/CCIIO/Resources/Regulations-and-Guidance/Downloads/annual-redeterminations-for-coverage-42215.pdf>

⁴ As in the alternative procedures for benefit year 2017, if an enrollee returns to the Exchange and obtains an updated eligibility determination by the last day on which a plan selection may be made for coverage effective January 1, 2018 in accordance with the effective dates specified at 45 CFR 155.410(f), but does not select a plan, and does not add or remove QHP-eligible individuals to the application or change his or her ZIP code or county of residence, the Exchange will use the updated eligibility determination as the basis for auto re-enrollment.

basis for enrollment for benefit year 2018 by the last day on which a plan selection may be made for coverage effective January 1, 2018, in accordance with the effective dates specified at 45 CFR 155.410(f); and 5) have no income information available from IRS for tax year 2015 or tax year 2016.

Procedures Newly Applicable for 2018

Failure to File and Reconcile Group. As Exchange regulations in 45 CFR 155.305(f)(4) specify, an enrollee may not be determined eligible for APTC if the tax filer for the household did not comply with the requirement to file an income tax return for a year for which APTC was provided and reconcile APTC previously paid on his or her behalf. Beginning in September 2016, IRS expanded the data it provided upon request from an Exchange to include three different indicators regarding the tax filing status for the household. These indicators separately distinguish whether APTC was paid on the tax filer's behalf for a given year, and for the same year, whether the tax filer a) did not file a tax return and did not request an extension; b) did not file a tax return but did request an extension;⁵ or c) did file a tax return but did not reconcile the APTC using Form 8962.

Under the alternative procedures for benefit year 2018, the Exchange will expand upon the process first implemented for benefit year 2016 by discontinuing APTC for tax filers who fall into category c) above. Thus, the Exchange will discontinue APTC and income-based CSR for benefit year 2018 in instances where:

- 1) the enrollee is on an application on which one or more enrollees is receiving APTC or income-based CSR;
- 2) the enrollee authorized the Exchange to request updated tax return information for use in the annual redetermination process;
- 3) IRS indicated in response to the Exchange's request for updated tax return information that APTC was provided for the tax filer, but the tax filer did not file a tax return for the year for which APTC was provided, or the tax filer did file a tax return for the year for which APTC was provided, but did not reconcile APTC for that year using Form 8962; and
- 4) the enrollee does not contact the Exchange to obtain an updated eligibility determination that results in eligibility for APTC or income-based CSR and is used as the basis of enrollment by the last day on which a plan selection can be made for coverage effective January 1, 2018, in accordance with the effective dates specified at 45 CFR 155.410(f).

Operational Updates

General Operations

The Centers for Medicare and Medicaid Services (CMS) will continue to build on the operational improvements made as part of the federal eligibility and enrollment platform's annual redetermination and re-enrollment process in 2017 to further smooth the process for enrollees and issuers. For example, CMS will continue to ease the burden on issuers in processing the

⁵ The IRS response for a tax filer who requested an extension and did not file by the extended deadline will fall into group a). If they file by the extension deadline, but do not reconcile APTC using form 8962, they will fall into group c).

large volume of QHP re-enrollments through the Exchange in a timely manner by sending a sizeable share of preliminary re-enrollment transactions to issuers in advance of the last day on which a plan selection could be made for coverage effective January 1, 2018, in accordance with the effective dates specified at 45 CFR 155.410(f). CMS is working with issuers to determine whether even more of the total volume of transactions can be sent earlier in the process. CMS intends to invite comment on the Exchange approach to annual redetermination through the 2019 HHS Notice of Benefit and Payment Parameters, including comments that would enhance the integrity of the process, and will continue to work to implement the suggestions of issuers, consumer advocates, and other stakeholders where feasible.